### Rights NC

#### Prefer reflective equilibrium as a procedure for the framework debate. This means justifications must fit in with our internal moral convictions and hold up with other deeply held beliefs.

A) regress-all completely deductive justifications devolve into certain basic premises that we must accept-finding coherence among our intuitions determine the validity of these assumptions.

Huemer Michael Huemer, Ethical Intuitionism. © 2005, http://spot.colorado.edu/~huemer/5.htm

Other things being equal, it is reasonable to assume that things are the way they appear. I call this principle 'Phenomenal Conservatism' ('phenomenal' meaning 'pertaining to appearances'). I have discussed the principle elsewhere, so here I will be relatively brief.(1) There is a type of mental state, which I call an 'appearance', that we avow when we say such things as 'It seems to me that p', 'It appears that p', or 'p is obvious', where p is some proposition. Appearances have propositional contents--things they represent to be the case--but they are not beliefs, as can be seen from the intelligibility of, 'The arch seems to be taller than it is wide, but I don't think it is'. Nevertheless, appearances normally lead us to form beliefs. 'Appearance' is a broad category that includes mental states involved in perception, memory, introspection, and intellection. Thus, we can say, 'This line seems longer than that one', 'I seem to recall reading something about that', 'It seems to me that I have a headache', and 'It seems that any two points can be joined by a single straight line'.(2) All of those statements make sense, using the same sense of 'seems'. Appearances can be deceiving, and appearances can conflict with one another, as in the Müller-Lyer illusion: It initially seems that the top line is longer than the bottom line. But if you get out a ruler and measure them, you will find them to be of the same length. The top line will seem, when holding a ruler next to it, to be 2 inches long, and the bottom line will similarly appear to be 2 inches long. So, all things considered, it seems that the two lines are of the same length. As this example illustrates, an initial appearance can be overruled by other appearances (this does not mean the initial appearance goes away, but only that we don't believe it), and only by other appearances. Some appearances are stronger than others--as we say, some things are 'more obvious' than others--and this determines what we hold on to and what we reject in case of conflict. Presumably, it more clearly seems to you that the result of measuring the lines is accurate than that the result of eyeballing them is, so you believe the measurement result (this may have to do with background beliefs you have about the reliability of different procedures--which would themselves be based upon the way other things seem to you). Things can become complicated when many different beliefs and/or appearances are involved, but the basic principle is that we are more inclined to accept what more strongly seems to us to be true. Appearances can be intellectual, as opposed to sensory, mnemonic, or introspective. It seems to us that the shortest path between any two points must be a straight line; that time is one-dimensional and totally ordered (for any two moments in time, one is earlier than the other); and that no object can be completely red and completely blue at the same time. I accept those things on intellectual grounds. I am not looking at all the possible pairs of points and all the possible paths connecting each pair and seeing, with my eyes, that the straight path is the shortest in each case. Instead, I am 'seeing' intellectually that it must be true--that is, when I think about it, it becomes obvious. Logical judgments rest on intellectual appearances. We think the following inference logically valid (the premises entail the conclusion, regardless of whether the premises are true): Socrates is a man. All men are inconsiderate. Therefore, Socrates is inconsiderate. but the next one invalid: Socrates is inconsiderate. All men are inconsiderate. Therefore, Socrates is a platypus. We 'see' this, not with our eyes, but with our intellect or reason. All judgments are based upon how things seem to the judging subject: a rational person believes only what seems to him to be true, though he need not believe everything that seems true.(3) The function of arguments is to change the way things seem to one's audience, by presenting other propositions (premises) that seem true and seem to support something (the conclusion) that may not initially have seemed true to the audience. An argument has force only to the extent that its premises seem true and seem to support its conclusion. Intellectual inquiry presupposes Phenomenal Conservatism, in the sense that such inquiry proceeds by assuming things are the way they appear, until evidence (itself drawn from appearances) arises to cast doubt on this. Even the [skeptic’s] arguments of a philosophical skeptic who says we aren't justified in believing anything rest upon the skeptic's own beliefs, which are based upon what seems to the skeptic to be true.

This outweighs the aff since 1: each link chain in your framework diminishes the probability of the overall statement-coherence with internal convictions is best, 2: intuitions outweigh dropped framework warrants—if a crazy person starts ranting about the moon landing being faked, I don’t discount their arguments but given my stronger justification to the contrary I retain my belief.

This also means I outweigh the aff framework on strength of link, since each link in a chain diminished probability of the overall statement, so cohering directly with intuitions is best.

B) moral uncertainty-philosophers have disagreed for decades so no foundational premise can have complete plausibility-we should compare a wide range of beliefs to reach the best epistemic conclusions.

C) motivational-morality by definition is a guide to action but if our ethical theories don’t cohere with our intuitive beliefs then we won’t act upon them. And, contesting reflective equilibrium requires warranting another theory of justification-otherwise I’m the only who has a way to weigh between framework justifications.

#### Next, monistic moral theories are overly reductive-they don’t accord with intuitions because they can’t reflect the number of situations we must engage in.

Desaulniers Angela J. Desaulniers “Rossian Moral Pluralism: A (Partial) Defense” Thesis, Georgia State University, 2006. <http://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1004&context=philosophy_theses> JW

In developing his moral theory, Ross aimed at finding a way to ground our moral decisions in something other than just one small aspect of each action we take. He, like many other philosophers, felt that monistic theories were “overly reductive: they attempt to boil all morally relevant considerations down to a single, fundamental feature possessed of moral relevance.”4 When we reason about a situation, according to Ross, we generally take more into account about the situation than just whether it produces pleasing consequences or if we have an absolute duty to keep our promises. If we were to take into account only one of these aspects we seem to lose something because “normally promise keeping…should come before benevolence, but…when and only when the good to be produced by the benevolent act is very great and the promise comparatively trivial, the act of benevolence becomes our duty.”5 There must be a way to keep both of these ideas, as well as any others that we may find necessary, in mind when we need to decide which course of action to take. For Ross, the way to find all of the relevant considerations is by looking at the relationships we have with people. While a beneficiary relationship with others is one of the most common types of relationships that we are in, it is not the only relationship we have. Others “do stand in this relationship to me, and this relation is morally significant. But they may also stand to me in the relation of promisee to promiser, of creditor to debtor, of wife to husband, of child to parent, of friend to friend, of fellow countryman to fellow countryman, and the like.”6 Each of these relationships needs to be reflected in the moral theory that we use to make our decisions. If we leave them out, then we leave out the majority of the considerations we normally take into account when we are making a decision to take a certain action. Whether these considerations can be acted on, and how I can act on them if I am allowed to is something for the moral theory we use to decide. As we will see soon, Ross creates his theory so that we can respect these relationships we have with people. While the first goal of Ross’ theory is to create a theory that reflects our intuitions and normal decision making process, a secondary goal in this process was to ensure that the theory truly reflect our intuitions and therefore not be grounded in any one moral principle. Any attempt to ground the theory in a singular moral principle, according to Ross, will and should fail. We need to look at something other than what a potential single underlying principle would be. According to Ross, because of the varying relationships that we have with people [and], as well as the varying situations we can be confronted with, all that we can truly rely on are the intuitions we have or our ‘commonsense morality’. Anyone who is has “reached sufficient mental maturity and ha[s] given sufficient attention to the proposition” 7 will be able to rightly decide which courses of action are right and wrong if they have the correct system with which to do so. The one and only way to figure out what to do is to look at the entirety of the situation one is in and look at the relationships (and as we will see soon the duties that come out of these relationships) one is in. In doing this, the right action will always be evident to the rational, adult mind. The first problem that comes to mind with this idea of a ‘common-sense’ morality is that it seems that we cannot always rely on our own common-sense because there are times when our convictions fail us in some way and lead us in the wrong direction. What we need to keep in mind though is that Ross is not telling us to adopt our common-sense convictions solely as they are but tells us, as Berys Gaut puts it, that “when we begin critical thinking about morality…we start with a rich set of convictions and begin to reflect on these convictions with the tools we have available: the principles of deliberation internal to that morality, the convictions themselves and our experience of the world.”8 When we engage in this rational deliberation and look at what our commonsense morality has told us, we can decide if it does in fact correctly reflect the way the world is. Even if our initial intuitions about the world were incorrect, through this process we can develop correct intuitions so that we can understand what is morally right and also what is morally good.

#### Instead, we should prefer prima facie duties based on particular circumstances.

Desaulniers 2 Angela J. Desaulniers “Rossian Moral Pluralism: A (Partial) Defense” Thesis, Georgia State University, 2006. <http://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1004&context=philosophy_theses> JW

We can now turn to what Ross thinks a practical ethical theory should be. In our examination thus far, the concept of having a duty to perform certain actions has appeared several times. According to Ross, there are a number of duties that we have in life besides those which are typically laid out in an ethical theory. We are told, in most ethical theories, that we have an absolute duty to do X. What X is varies from theory to theory but what doesn’t is the idea of an absolute duty. Absolute duties are duties which one must always uphold regardless of the situation. One is always required to do actions which are absolute duties and is not allowed to pick and choose some and not others. If one has an absolute duty to keep promises one must always do so regardless of the specific promise made. In each of the major ethical theories there is an absolute duty placed on the follower of that theory to make sure that whatever the theory holds to be important is always the main factor in the decision-making process. Theories resting on these absolute duties, according to Ross, fail to respect the many relationships that we are in with people. As was mentioned previously, people are not just in a beneficiary relationship with us but also those of a parent, friend, employee, etc. These relationships put duties on us that other theories seem to ignore but that Ross thinks are absolutely necessary to creating an ethical theory. The duties that we have to these people are not like absolute duties according to Ross because they are not always relevant in a situation and change in their stringency. Ross’s answer to the question of what types of duties we have to those we are in specific relationships with is to say that we have ‘prima facie’ duties. “Each of these relations is the foundation of a prima facie duty, which is more or less incumbent on me according to the circumstances of the case.”19 An act that is a prima facie duty has the tendency to be our duty in situations. “It is in fact not a duty, but something related in a special way to duty”20 in that it points us towards what can be considered our absolute duty in the situation. For example, in most situations we tend to have the duty to keep our promises to people, unless some other duty tells us otherwise. Another example is that we tend to have the duty to help someone, once again, unless some other duty tells us otherwise. That an act is a prima facie duty is, according to Ross, “the characteristic…which an act has, in virtue of being of a certain kind…of being an act which would be a duty proper if it were not at the same time of another kind which is morally significant.”21 Out of the many relationships that we are in with other people, Ross finds seven prima facie duties that are binding on us. These prima facie duties can be divided into two categories; duties of special obligation and value based duties.22 The duties of special obligation are the duty of fidelity, the duty of reparation, and the duty of gratitude. They are agent-relative in that they “give different moral aims to different individuals”23 based on their personal relationships and they exist because of actions I or others have taken in the past. The duty of fidelity is the prima facie duty to keep our promises and avoid lying or deceiving people. The duty of reparation is the prima facie duty to ‘makeup- for’ wrongs that have been done to people either by you or because of your actions. The duty of gratitude is the prima facie duty we have to reciprocate for actions people have taken for our benefit in the past. Whether or not we think someone deserves to have their promise kept or for us to make up for some harm we caused them we still have the inclination that something would not be right if we were to withhold our actions. If we promise to help someone reap their crops if they will help us with ours but in the time between their having helped us and our time to help them we find that they have done something we disagree with (for instance hired a slave) we still have the duty to help them. We will see later that there are ways in which our duty to them can be overpowered by other duties more stringent than the one already at hand. The second category of prima facie duties is that of the value-based duties. Value-based duties are distinct from duties of special obligation because value based duties are generally agent-neutral “giv[ing] all people the same moral aim”24 regardless of their personal situation and relationships and have nothing to do with my or others past actions. The value based duties are the duty of justice, the duty of beneficence, the duty of self-improvement, and the duty of non-maleficence. The duty of justice reflects the tendency we have to distribute goods among people according to merit. They “rest on the fact or possibility of a distribution of pleasure or happiness…which is not in accordance with the merit of the persons concerned; in such cases there arises a duty to upset or prevent such a distribution.”25 The duty of beneficence simply tells us that there is a strong tendency for it to be our duty to do beneficial actions for others. The duty of selfimprovement tells us that “actions through which we would improve our own character or intelligence are actions we have a prima facie duty to perform.”26 And finally, the duty of non-maleficence is the duty to avoid actions that could injure others. This is distinct from the duty of beneficence in that it is the active safeguarding against causing harm rather than making sure that good things happen to people rather than bad things. These seven duties compose Ross’ moral pluralism. They are what Ross believes lie at the bottom of our everyday moral reasoning about situations and actions. He tells us that “the main moral convictions of the plain man seem to me to be, not opinions which it is for philosophy to prove or disprove, but knowledge from the start.”27 These duties are then a part of our common-sense morality. Any other duties we can think of will either be found not to be a duty at all or will be a combination of two or more of the already established duties. While Ross believes that any attempt to find more prima facie duties will fail, he does not claim that his list is complete or final. It is possible that we do not yet possess the knowledge necessary to see other potential prima facie duties. All that we can do is continue to cultivate our intellect and reevaluate from time to time whether we have gained any new knowledge that would lead us to a new prima facie duty. In saying this, Ross also leaves open the possibility that there may be a founding principle out there that these prima facie duties all rest on. While he thinks that it is impossible for us to ever find it and that it simply does not and can not exist, he does acknowledge the fact that someday, once our knowledge has increased, we may find something new and need to reevaluate.

#### Thus, the standard is consistency with prima facie duties.

#### I contend the owning hand guns is a prima facie right. The presumption of rights is in favor of liberty so the aff needs proactive reasons why guns ought to be banned otherwise vote neg.

Huemer 03 Michael Huemer “Is There a Right to Own a Gun?” Social Theory and Practice, Vol. 29, No. 2 (April 2003), pp. 297-324 <http://www.owl232.net/guncontrol.htm> JW

Given the presumption in favor of liberty, there is at least a prima facie right to own a gun, unless there are positive grounds of the sort discussed in §2.1 for denying such a right. Are there such grounds? (i) Begin with the principle that one lacks a right to do things that harm others, treat others as mere means, or use others without their consent. It is difficult to see how owning a gun could itself be said to do any of those things, even though owning a gun makes it easier for one to do those things if one chooses to. But we do not normally prohibit activities that merely make it easier for one to perform a wrong but require a separate decision to perform the wrongful act. (ii) Consider the principle that one lacks a right to do things that impose unacceptable, though unintended, risks on others. Since life is replete with risks, to be plausible, the principle must use some notion of excessive risks. But the risks associated with normal ownership and recreational use of firearms are minimal. While approximately 77 million Americans now own guns,Footnote the accidental death rate for firearms has fallen dramatically during the last century, and is now about .3 per 100,000 population. For comparison, the average citizen is nineteen times more likely to die as a result of an accidental fall, and fifty times more likely to die in an automobile accident, than to die as a result of a firearms accident.Footnote (iii) Some may think that the firearms accident statistics miss the point: the real risk that gun ownership imposes on others is the risk that the gun owner or someone else will ‘lose control’ during an argument and decide to shoot his opponent. Nicholas Dixon argues: “In 1990, 34.5% of all murders resulted from domestic or other kinds of argument. Since we are all capable of heated arguments, we are all, in the wrong circumstances, capable of losing control and killing our opponent.”Footnote In [303] response, we should first note the invalidity of Dixon’s argument. Suppose that 34.5% of people who run a 4-minute mile have black hair, and that I have black hair. It does not follow that I am capable of running a 4-minute mile. It seems likely that only very atypical individuals would respond to heated arguments by killing their opponents. Second, Dixon’s and McMahan’s claims are refuted by the empirical evidence. In the largest seventy-five counties in the United States in 1988, over 89 percent of adult murderers had prior criminal records as adults.Footnote This reinforces the common sense view that normal people are extremely unlikely to commit a murder, even if they have the means available. So gun ownership does not typically impose excessive risks on others. (iv) Consider the idea that individuals lack a right to engage in activities that reasonably appear to evince an intention to harm or impose unacceptable risks on others. This principle does not apply here, as it is acknowledged on all sides that only a tiny fraction of America’s 77 million gun owners plan to commit crimes with guns. (v) It might be argued that the total social cost of private gun ownership is significant, that the state is unable to identify in advance those persons who are going to misuse their weapons, and that the state’s only viable method of significantly reducing that social cost is thus to prevent even noncriminal citizens from owning guns. But this is not an argument against the existence of a prima facie right to own a gun. It is just an argument for overriding any such right. In general, the fact that restricting an activity has beneficial consequences does not show that no weight at all should be assigned to the freedom to engage in it; it simply shows that there are competing reasons against allowing the activity. (Compare: suppose that taking my car from me and giving it to you increases total social welfare. It would not follow that I have no claim at all on my car.)

#### Gun prohibitions violate right to self-defense—that’s an extremely weighty right.

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The main argument on the gun rights side goes like this: 1. The right of self-defense is an important right. 2. A firearms prohibition would be a significant violation of the right of self-defense. 3. Therefore, a firearms prohibition would be a serious rights-violation. The strength of the conclusion depends upon the strength of the premises: the more important the right of self-defense is, and the more serious gun control is as a violation of that right, the more serious a rights-violation gun control is. I begin by arguing that the right of self-defense is extremely weighty. Consider this scenario: Example 1 A killer breaks into a house, where two people—“the victim” and “the accomplice”—are staying. (The “accomplice” need have no prior interaction with the killer.) As the killer enters the bedroom where the victim is hiding, the accomplice enters through another door and proceeds, for some reason, to hold the victim down while the killer stabs him to death. In this scenario, the killer commits what may be the most serious kind of rights-violation possible. What about the accomplice who holds the victim down? Most would agree that his crime is, if not equivalent to murder, something close to murder in degree of wrongness, even though he neither kills nor injures the victim. Considered merely as the act of holding someone down for a few moments, the accomplice’s action [307] seems a minor rights-violation. What makes it so wrong is that it prevents the victim from either defending himself or fleeing from the killer—that is, it violates the right of self-defense. (To intentionally and forcibly prevent a person from exercising a right is to violate that right.) We may also say that the accomplice’s crime was that of assisting in the commission of a murder—this is not, in my view, a competing explanation of the wrongness of his action, but rather an elaboration on the first explanation. Since the right of self-defense is a derivative right, serving to protect the right to life among other rights, violations of the right of self-defense will often cause or enable violations of the right to life. It is common to distinguish killing from letting die. In this example, we see a third category of action: preventing the prevention of a death. This is distinct from killing, but it is not merely letting die, because it requires positive action. The example suggests that preventing the prevention of a death is about as serious a wrong as killing. In any case, the fact that serious violations of the right of self-defense are morally comparable to murder serves to show that the right of self-defense must be a very weighty right. The intuition of the extreme wrongness of the accomplice’s act is supported by the criteria for the seriousness of rights-violations suggested in §2.3. First, the right to life is of foremost importance to individuals’ ability to carry out their plans for their own lives. Second, the right of self-defense is very important to protecting individuals’ right to life. Third, holding down a person who is being stabbed is extremely serious as a violation of the right of self-defense. We turn to premise 2, that gun prohibition is serious as a violation of the right of self-defense. Consider: Example 2 As in example 1, except that the victim has a gun by the bed, which he would, if able, use to defend himself from the killer. As the killer enters the bedroom, the victim reaches for the gun. The accomplice grabs the gun and runs away, with the result that the killer then stabs his victim to death. The accomplice’s action in this case seems morally comparable to his action in example 1. Again, he has intentionally prevented the victim from defending himself, thereby in effect assisting in the murder. The arguments from the criteria for the seriousness of rights-violations are the same. The analogy between the accomplice’s action in this case and a general firearms prohibition should be clear. A firearms ban would require confiscating the weapons that many individuals keep for self-defense [308] purposes,Footnote with the result that some of those individuals would be murdered, robbed, raped, or seriously injured. If the accomplice’s action in example 2 is a major violation of the right of self-defense, then gun prohibition seems to be about equally serious as a violation of the right of self-defense. Consider some objections to this analogy. First, it might be said that in the case of a gun ban, the government would have strong reasons for confiscating the guns, in order to save the lives of others, which (we presume) is not true of the accomplice in example 2. This, I think, would amount to arguing that the self-defense rights of non-criminal gun owners are overridden by the state’s need to protect society from criminal gun owners. I deal with this suggestion in §5 below. Second, it might be argued that example 2 differs from a gun ban in that the murder is imminent at the time the accomplice takes the gun away. But this seems to be morally irrelevant. For suppose that the accomplice, knowing that someone is coming to kill the victim tomorrow (while the victim does not know this), decides to take the victim’s gun away from him today, again resulting in his death. This would not make the accomplice’s action more morally defensible than it is in example 2. A third difference might be that, whereas we assume that in example 2 the accomplice knows that the victim is going to be killed or seriously injured, the state does not know that its anti-gun policy will result in murders and injuries to former gun-owners. This, however, is surely not true. Although the state may claim that the lives saved by a gun ban would outnumber the lives cost, one cannot argue that no lives will be cost at all, unless one claims implausibly that guns are never used in self-defense against life-threatening attacks. Some will think the former claim is all that is needed to justify a gun ban; this would return us to the first objection. Fourth, it may be observed that in example 2, there is a specific, identifiable victim: the accomplice knows who is going to die as a result of his gun-confiscation. In contrast, a gun-banning government cannot identify any specific individuals who are going to be killed as a result of its gun ban, even though it can predict that some people will be. But this seems morally irrelevant. Consider: Example 3 An ‘accomplice’ ties up a family of five somewhere in the wilderness where he knows that wolves roam. He has good reason to [309] believe that a pack of wolves will happen by and eat one or two of the family members (after which they will be satiated), but he doesn’t know which ones will be eaten. He leaves them for an hour, during which the mother of the family is eaten by the wolves. In this case, the fact that the accomplice did not know who would die as a result of his action does not mitigate his guilt. Likewise, it is unclear how the state’s inability to predict who will become the victims of its anti-gun policy would mitigate the state’s responsibility for their deaths or injury. Fifth, the victims of a gun ban would presumably have sufficient forewarning of the coming ban to take alternative measures to protect themselves, unlike the victim in example 2. Unfortunately, statistics from the National Crime Victimization Survey indicate that such alternative means of self-protection would be relatively ineffective—individuals who defend themselves with a gun are less likely to be injured and far less likely to have the crime completed against them than are persons who take any other measures.Footnote Consequently, though the present consideration seems to mitigate the state’s culpability, it does not remove it. The situation is analogous to one in which the accomplice, rather than taking away the victim’s only means of defending himself against the killer, merely takes away the victim’s most effective means of self-defense, with the result that the victim is killed. Here, the accomplice’s action is less wrong than in example 2, but it is still very wrong. Since gun prohibition is a significant violation of an extremely weighty right, we must conclude that it is a very serious rights-violation. The above examples initially suggest that it is on a par with the commission of (multiple) murders, robberies, rapes, and assaults—although the consideration of the preceding paragraph may show that it is somewhat less wrong than that. The point here is not that would-be gun banners are as blameworthy as murderers and other violent criminals (since the former do not know that their proposals are morally comparable to murder and have different motives from typical murderers). The point is just to assess the strength of the reasons against taking the course of action that they propose.

### Fwk O/V

Explain how their framework relies on some intuitions about induction or something

Your offense is non unique-winning framework warrants isn’t enough because you need to win arguments about why those are the *only* thing that matters-otherwise the NC can incorporate it into a pluralistic conception of ethics which solves.

### A2 Non-Interference

#### Right to self-defense comes from the right to life, not the right to non-interference.

Baker 14 Deane-Peter (UNSW Canberra) “Gun Bans, Risk, and Self-Defense” International Journal o f Applied Philosophy 28:2 pp. 235-249 2014 JW

The first problem with LaFollette's argument is that he has misidentified the fundamental right that is relevant here. While it is true that we have a general right of noninterference, the right to self-defense—at least as it is connected to the right to firearm ownership—is derived from something even more fundamental, the right to life. This becomes evident when we consider the circumstances under which wielding a firearm in self-defense would be justified by the requirement of proportionality. The use of a firearm involves inflicting potentially lethal harm. Therefore firearms may only legitimately be employed in self-defense, or their use threatened for defensive purposes, in circumstances that can be reasonably considered to be life-threatening or that represent the threat of real, serious, and lasting or permanent harm.16 It is hard to imagine other forms of interference (such as interfering with my right to freedom of speech, or freedom of movement, or freedom of religion) that would legitimate employing, or threatening the employment of, a firearm. LaFollette's connecting of the prima facie derivative right to own firearms in self-defense to the fundamental right of noninterference therefore illegitimately weakens the weight of the derivative right.

### A2 Only Derivative

#### Gun rights are stronger than most derivative rights—stems from right to dignity and life.

Baker 14 Deane-Peter (UNSW Canberra) “Gun Bans, Risk, and Self-Defense” International Journal o f Applied Philosophy 28:2 pp. 235-249 2014 JW

First, as I have argued above, the unique nature of the right to life means that the right to self-defense loses very little, if any, normative weight in being a derivative right. A second consideration is that the weight of the right to self-defense is not only derived from its connection to the right to life, but has additional, intrinsic, moral weight. Beyond its role in securing the right to life, the right to defend oneself against an attacker intent on lethal harm is, for want of a better description, a basic dignity. One way to see this is to consider the fact that meeting the requirement of 'likelihood of success' is not a requirement that must be met for an individual to legitimately employ force in self-defense against an attacker bent on inflicting lethal harm. That is to say, we do not expect Victim, on determining that her chances of preventing Attacker from killing her are either miniscule or nil, to refrain from directing proportionate and discriminate force against her attacker. Why not? One answer might be to point to epistemic uncertainty—that under such conditions Victim cannot be certain that responding with force will not prevent her death, and so, given the seriousness of the situation, she is justified in her response. But that won't do. It is easy enough to think up cases where Victim's death is virtually certain and the use of force against Attacker is almost certainly going to be impotent in preventing that death. Yet it seems strongly counterintuitive to say that Victim would be doing a moral harm were she to put up a fight anyway. Why is that? It cannot be that Victim's actions are justified in order to ensure that Attacker receives his just punishment. If that were so a third-party defender would be pro tanto justified in using lethal force against Attacker where there were no likelihood that doing so would prevent the death of Victim—and that is clearly not the case. So the justifiability of Victim's action in this case must be about Victim, not Attacker. Our intuition here is that Victim's fundamental dignity requires that she be allowed to attempt to defend herself, and not simply accept the role of helpless victim, even where doing so is doomed to failure. This dignity, then, is an inherent part of the moral weight that the right to self-defense has, a weight that is additional to the derivative moral weight the right to self-defense gains from the right to life. Finally, it is also a mistake to consider the right to own firearms for purposes of self-defense as being 'another step away.' The right to self-defense entails the right to the means to self-defense.18 Thus, if you deny me access to whatever means are necessary to defend my life in some or other circumstance it is my right to self-defense that you are directly undermining, not some second-order right to the means in question, whatever it may be. Strictly speaking, then, it is somewhat misleading to speak of a right to gun ownership, though that is obviously a more convenient convention than speaking of 'the right to self-defense that entails private ownership of firearms.'

### K2 Self-Defense

#### Guns are key to self-defense.

Baker 14 Deane-Peter (UNSW Canberra) “Gun Bans, Risk, and Self-Defense” International Journal o f Applied Philosophy 28:2 pp. 235-249 2014 JW

The question remains, is private ownership of firearms in fact entailed by the right to self-defense? Dixon contends that "the right to self-defense is constrained by necessity and proportionality requirements. If handguns, while sufficient, are not necessary to protect us from predators, using them would be gratuitous and not entailed by the general right to self-defense. In the vast majority of cases, we can indeed protect ourselves from being victimized by criminals without using any type of firearm. " 21 There is an important confusion here that becomes evident if we consider more closely the issues of necessity and proportionality as they pertain to this issue. If I can, without undue risk of serious harm to myself, disarm an attacker who intends to kill me, then employing lethal means such as a firearm might be proportional but not necessary. On the other hand, if I am protecting myself against an attacker who, despite her best intentions, clearly does not present any danger of lethal or serious harm, then it would be disproportionate for me to shoot her. So Dixon is correct to say that these requirements are constraints on the right to self-defense. However, the necessity and proportionality constraints on the right to self-defense are defined by the specific circumstances of each particular occasion in which that right is exercised. As such, what is or is not proportionate or necessary in 'the vast majority of cases' tells us nothing at all about what will be proportionate or necessary for any particular case of selfdefense. Of course McMahan is correct to say that "we would all be safer if no one had guns—or, rather, no one other than trained and legally constrained police officers. " 22 But even if a ban on guns could actually achieve a utopian world in which the 'bad guys' do not have firearms (unlikely in the extreme) this would still not show that ownership of a firearm for purposes of self-defense fails the test of necessity. It is entirely feasible that I might be attacked by an assailant who is intent on deadly harm and armed with a kitchen knife, hammer, axe or club in circumstances where employing a firearm would be both necessary and proportionate (presumably the possibility of this kind of attack is also why McMahan thinks the police would still need guns in the utopian world he hopes for). So, in the absence of a world without assailants intent on lethal harm, the question of whether or not possession of a firearm is entailed by the right to self-defense exercised in accordance with the requirements of necessity and proportionality has nothing at all to do with what those requirements dictate about the use of lethal force in the majority of cases.

### **A2 justifies nukes**

#### Gun ownership does not justify ownership of every weapon.

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Perhaps there is a problem here. Is not the argument here subject, as Dixon suggests, to a reductio ad absurdum, namely "that the same argument for handguns as a means of self-defense would also entail a right for private ownership of Uzis, hand grenades, or even nuclear weapons" ? 23 Dixon implies that this reductio can only be avoided if we follow Huemer24 in dismissing any argument for ownership of such weapons on the grounds that "the odds are hugely stacked against the benefits of such weapons outweighing their enormous risks," which plays directly into Dixon's claim that what must be weighed here is 'the overall net effect' of (hand)gun ownership on homicide rates—i.e., it all boils down to risk simpliciter.25 But this apparent reductio absurdum in fact has no such consequence and we are in no way compelled to evaluate the issue in this manner. What is missed here is that we are not considering the right to self-defense (and what is entailed by that right) in a state of nature, but in the context of a functioning state. In a state of nature the right to self-defense might well entail a right for private ownership of Uzis, hand grenades, and yes, even nuclear weapons. If there is no state to protect me, and my life is at threat by marauding bands of heavily-armed bandits, then automatic weapons and explosive ordnance might well be required for necessary, proportionate and effective self-defense. Likewise, imagine an unlikely but conceptually coherent hypothetical future situation in which the government of the United States has collapsed, leaving no legitimate authority in power over the territory formerly occupied by the United States of America. Imagine further that a hostile nuclear-armed country is poised to take advantage of the situation in order to exact revenge for perceived past harms, by launching nuclear strikes onto the territory of what was the USA. Under such (admittedly bizarre) circumstances it would not be obviously inappropriate for an individual to secure ownership of a nuclear weapon for the purposes of deterring the hostile state in defense of that person's life and the lives of other former Americans living in the territory formerly occupied by the USA (keeping in mind that defense of others is a recognized aspect of self-defense).26 The reason we don't normally think of the right to self-defense as entailing a right to Uzis, hand grenades, and the like is not, as Huemer and Dixon think, because they weigh too heavily on the risk side of the risk-benefit equation. It is instead because the right to self-defense as we are talking about it here is exercised in the context of a functioning state which is responsible for shouldering most of the burden of defending us from those who would harm us. Where there is a functioning and effective state, the likelihood of my requiring automatic weapons and explosive ordnance in order to defend myself is vanishingly small, and therefore the state does me no moral harm by denying me access to such weapons. If, however, I were to live in one of the parts of (say) present-day Somalia where the government and its international supporters has yet to exert effective control, and where I face the real threat of harm from heavily armed bandit groups and radical Islamists like A1 Shabaab, then I would most certainly be entitled to retain ownership of my select-fire AK-47 and perhaps even a grenade or two.

### A2 lessens state monopoly of power

#### Gun ownership does not remove from the state’s monopoly on force.

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But is McMahan right? I don't believe he is. For one thing, if the state's monopoly on force were merely a consequence of the police having an advantage in firepower over the populace then we would have to say that, in the United States at least, the state lost that monopoly a long time ago. While there are no exact figures on the number of firearms in private hands in the United States, official estimates put the figure at somewhere around 310 million34—the law enforcement community in the U.S. is without doubt 'outgunned' on any direct comparison of firepower. But the weight of the state's monopoly on force is as much, or more, a product of societal norms as it is of relative firepower. McMahan also misses the point that an ordinary law-abiding citizen who owns and perhaps employs a firearm in legitimate self-defense does not by virtue of doing so resort to 'vigilantism.' So long as said civilian acts within the law (which allows her the right to use force in self-defense under appropriate circumstances) she is in effect licensed by the state to use force in this manner, and is thereby acting as a proxy agent of the state in doing so. It is only if most gun owners act in opposition to the laws enacted by the state that the state's monopoly on force is threatened. But, pace McMahan, there is no reason to think that to be the case.